

**§1746. Retention of part of contract price**

In any contract awarded for any public improvement the State shall withhold 5% of the money due the contractor until the project under the contract has been accepted by or for the State, except that when the contract has been substantially completed the State may, upon request, further reduce the amounts withheld if it deems it desirable and prudent.

Under any contract made or awarded by the State or by any public department or official thereof, including the construction, improvement or repair of any and all ways, roads or bridges with appurtenances which, by law, are under the supervision of the Department of Transportation, the contractor may, from time to time, withdraw the whole or any portion of the amount retained for payments to the contractor pursuant to the terms of the contract, upon depositing with the Treasurer of State: A negotiable certificate of deposit, United States treasury bonds, United States treasury notes, United States treasury certificates of indebtedness, United States treasury bills, or bonds or notes of the State of Maine or bonds of any political subdivision in the State of Maine. No amount shall be withdrawn in excess of the market value of the securities at the time of deposit or of the par value of such securities, whichever is lower. [PL 1971, c. 593, §22 (AMD).]

The Treasurer of State shall collect all interest or income when due on the obligations so deposited and shall pay the same, when and as collected, to the contractor who deposited the obligations. If the deposit is in the form of coupon bonds, the Treasurer of State shall deliver each coupon as it matures to the contractor. The Treasurer of State may enter into a contract or agreement with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of any securities deposited with the Treasurer of State pursuant to this section. Those services must consist of the safekeeping of those securities and of all services required to effectuate the purposes of this section. [RR 2023, c. 2, Pt. B, §59 (COR).]

Any amount deducted by the State, or by any public department or official thereof, pursuant to the terms of the contract, from the retained payments due the contractor, shall be deducted, first from that portion of the retained payments for which no security has been substituted, then from the proceeds of any deposited security. In the latter case, the contractor shall be entitled to receive interest, coupons or income only from those securities which remain after such amount has been deducted. [PL 1967, c. 437 (NEW).]

Any assignment of retained payments made by the contractor shall be honored by the Treasurer of State as part of the procedure to accomplish the substitution of securities under this section, provided that such assignment will not be made without prior notification to the contracting agency of the State and the Treasurer of State. Such assignment shall not impair the equitable rights of the contractor's surety in the retained payments or in the securities substituted therefor in the event of the contractor's default in the performance of the contract or in the payment of labor and material bills or other obligations covered by said surety's bond. [PL 1967, c. 437 (NEW).]

Any contract made or awarded by the State, political subdivision or department or official thereof shall include the cost of necessary pollution control, if any, which will be required during the execution of the contract; provided the cost of pollution control activity which is required by legislation or regulation, passed or promulgated after the date on which bids are received for the project for which such contract is made or awarded, shall be paid for in an equitable manner. [PL 1973, c. 223 (NEW).]

The Director of the Bureau of General Services may approve contracts with a provision for daily financial incentive for projects completed before the scheduled date when it can be demonstrated that the early completion will result in a financial savings to the owner or to the State. The financial incentive may not be greater than the projected daily rate of savings to the owner or the State. [PL 2011, c. 691, Pt. B, §13 (AMD).]

**SECTION HISTORY**

PL 1967, c. 437 (AMD). PL 1969, c. 322, §1 (AMD). PL 1971, c. 593, §22 (AMD). PL 1973, c. 223 (AMD). PL 1989, c. 483, §A19 (AMD). PL 2011, c. 691, Pt. B, §13 (AMD). RR 2023, c. 2, Pt. B, §59 (COR).

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